June 11, 2020

IRS Establishes New PCOR Fee Dollar Amount and Temporary Transitional Guidance

UPDATED

Today the Internal Revenue Service issued guidance and transitional rules regarding the Patient-Centered Outcomes Research ("PCOR") fee for plan years ending on or after October 1, 2019 and before October 1, 2020 (the "Transitional Year"). IRS Notice 2020-44 sets the new PCOR fee at $2.54 per covered life and relaxes the rules for calculating the average number of covered lives during the Transitional Year.

Background

The ACA established IRC Sections 4375 and 4376 which impose the PCOR fee on health insurance policies and self-insured health plans, respectively. The PCOR fee under Sections 4375 and 4376 were originally applicable to policy and plan years ending after September 30, 2012 and before October 1, 2019. Each year the PCOR fee was increased by the amount of the increase in national health expenditures. For policy and plan years 2018-2019, the PCOR fee was $2.45 per covered life.

In December 2019, the Further Consolidated Appropriations Act extended the termination date of the PCOR fee for Sections 4375 and 4376 by ten years. Currently, the PCOR fee extends to plan and policy years ending before October 1, 2029.

Transition Relief for 2019-2020

For self-insured group health plans the final regulations under Section 4376 allow plan sponsors to use three methods to calculate the average number of covered lives for the plan year – the actual count method, the snapshot method and the Form 5500 method. However, many plan sponsors and administrators previously anticipated that the PCOR fee would terminate, and may not be in a position to easily calculate the average number of covered lives for the Transitional Year. As a result, the IRS now allows plan sponsors to use "any reasonable method" for calculating the average number of covered lives for the Transitional Year.

It is unclear what is intended by “any reasonable method.” However, incidentally, the IRS also allowed the use of “any reasonable method” for the first year that the PCOR fee applied. Specifically, a plan sponsor could have used "any reasonable method" to determine the average number of lives covered under a self-insured health plan for a plan year that began before July 11, 2012 and ending on or after October 1, 2012. It is likely that the IRS will seek to administer both the first year of PCOR fee applicability and the Transitional Year similarly.

Deadline for PCOR Fee Payments

As noted above, the PCOR fee for the Transitional Year is $2.54 per covered life. Plan sponsors of self-insured health plans are required to pay the PCOR fee on IRS Form 720. For calendar year plans ending December 31, 2019, this means the Form 720 and the PCOR fee must be paid by July 31, 2020. The IRS has updated the Form 720 Instructions and the Form 720 to account for the PCOR fee extension and the Transitional Year.